

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MIGUEL SUAREZ-PEREZ,

Defendant.

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8:04CR278

ORDER

Defendant has filed a Motion to Continue the jury trial now set for May 17, 2005 (#46). I also note that defendant has filed a motion for dismissal, based on an alleged violation of the Speedy Trial Act. Upon counsel's representation that he has a scheduling conflict for the May 17 date, and the Assistant U.S. Attorney has no objection to a continuance,

IT IS ORDERED that the Motion to Continue(#46) is granted, as follows:

1. The jury trial now scheduled for May 17, 2005 is cancelled. A new trial date will be set in accordance with the Speedy Trial Act, if necessary, after defendant's Motion to Dismiss (#47) is resolved.
2. As to the Motion to Continue, defendant shall file the written affidavit required by NECrimR 12.1 on or before May 16, 2005.
3. The ends of justice will be served by rescheduling the trial date and outweigh the interests of the public and the defendant in a speedy trial. The additional time arising as a result of the granting of the motion, i.e., the time between **May 17, 2005 and the rescheduled trial date** shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act for in light of defendant's pending motion and counsel's scheduling conflict. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED May 9, 2005.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**